



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-RC

CONCURRENCE COPY

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7008 3230 0003 0725 3209

Thomas Walsh, President
Montana Rail Link, Inc.
101 International Drive
Missoula, MT 59808

Re: Request for Information Pursuant to Section 104(e) of CERCLA
Smurfit-Stone Mill Site in Missoula County, Montana, SSID A804

Dear Mr. Walsh:

This letter seeks your cooperation in providing information and documents relating to the Smurfit-Stone Mill Site located at 14377 Pulp Mill Road near the city of Missoula, Missoula County, Montana (Site). The U.S. Environmental Protection Agency (EPA) is investigating the identification, nature, and quantity of materials that have been generated, treated, stored or disposed of at, or transported to, the Site; the nature or extent of the release of a hazardous substance, pollutant or contaminant at the Site; and information relating to the ability of persons to pay for or to perform a cleanup at the Site.

Pursuant to the authority of section 104 of the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604, as amended, you are hereby requested to respond to the Information Request set forth in Enclosure 1, attached hereto. The EPA is writing this letter to you because we have information that Montana Rail Link, Inc. (Montana Rail) may have transported hazardous substances to or from the Site.

Please respond to the Information Request within 30 days. Failure to respond fully and truthfully, or to adequately justify your failure to respond, can result in an enforcement action by the EPA, pursuant to section 104(e) of CERCLA and the imposition of penalties of up to \$37,500 per day of non-compliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001.

The Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501. *et seq*

Your response to this request must be accompanied by a notarized certificate that is signed and dated by the person who is authorized by you to respond to this request. The notarized certificate must state that the response submitted to EPA is complete and contains all documents and information responsive to

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this request that are known to you following a complete and thorough review of all information and sources available to you. A suggested format for the notarized certificate is included with this request as Enclosure 2.

The response to the Information Request should be mailed to:

U.S. Environmental Protection Agency
Region 8
Attn: Sharon Abendschan (8ENF-RC)
1595 Wynkoop Street
Denver, CO 80202-1129

The EPA strongly encourages you to give this matter your immediate attention and respond to the Information Request within the time specified above. If you have any questions relating to this Information Request, please contact Amelia Piggott, EPA Enforcement Attorney, at (303) 312-6410 or Sharon Abendschan, EPA Enforcement Specialist, at (303) 312-6957. Thank you for your cooperation in this matter.

Sincerely,

RORAKERCLAP
Kelcey Land, *Director*
~~Director~~, Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Andrea Madigan
Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Amelia Piggott, 8ENF-L
Sara Sparks, 8EPR-SA
Sharon Abendschan, 8ENF-RC
Dianna Lim, 8EPR-PS



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INSTRUCTIONS FOR THE INFORMATION REQUEST
Smurfit-Stone Mill, Missoula, Montana, A804
REQUEST #1

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the number of the Question to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide the EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it corresponds.
5. The information requested herein must be provided even though the Respondent may contend that it includes possible confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to section 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. § 9604(e)(7)(E), and 40 C.F.R. section 2.203(b). To prove your claim for confidentiality, you must provide the following information for each document for which confidentiality is claimed:
 - a. The portions of the information claimed to be entitled to confidential treatment;
 - b. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
 - c. Measures taken by you to guard against the undesired disclosure of the information to others;
 - d. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
 - e. Pertinent confidentiality determinations, if any, by the EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
 - f. Whether you assert that disclosure of the information would be likely to result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an

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explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents should be clearly identified.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information, and that you intend to continue to do so, and that it is not, and has not been, obtainable by legitimate means without your consent. Information covered by such a claim will be disclosed by the EPA only to the extent permitted by CERCLA section 104(e). If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you.

6. In accordance with 40 C.F. R. section 2.310(h), information which you submit in response to this Information Request may be disclosed to authorized representatives of the United States even if you assert a confidentiality claim. Please be advised that the EPA may disclose your responses to this Information Request to a private enforcement support services contractor employed by the EPA for the purpose of organizing and analyzing the response to this Information Request. The EPA contractor can only use the information for the purpose of carrying out the work required under the contract and must maintain the confidentiality of such information. See 40 C.F.R. section 2.301(h)(B). If you are submitting information you claim to be entitled to treatment as confidential business information, you may comment on this possible disclosure within fourteen days of receiving this Information Request to the EPA Enforcement Specialist identified above.

DEFINITIONS AND INFORMATION
Smurfit-Stone Mill, Missoula, Montana, A804
REQUEST #1

The following definitions shall apply to the following words as they appear in this Enclosure 2:

For purposes of this Information Request, the term "you" or "Respondent" shall mean Montana Rail Link, Inc.

1. The term "arrangement" means every separate contract or other agreement between two or more persons.
2. The term "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, and can be found at Volume 42, United States Code (U.S.C.), Section 9601, et seq.
3. The terms "document" and "documents" shall mean any written, recorded or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts and all non-identical copies.
4. The term "facility" shall have the same definition as in Section 101(9) of CERCLA.
5. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such hazardous substances with any other substances, including petroleum products.
6. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA.
7. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.
8. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), and the substance or the subject matter.
9. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.

10. The term "materials" shall mean all substances that have been generated, treated, stored or disposed of, or otherwise handled at or transported to the Property, including but not limited to all hazardous substances, pollutants or contaminants, hazardous wastes and solid wastes, as defined above, and mercury.
11. The term "person" shall have the same definition as in Section 101(21) of CERCLA: an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body.
12. ~~The term "arrangement" means every separate contract or other agreement between two or more persons.~~
13. The term "pollutant or contaminant" shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants or contaminants with any other substances, including petroleum products.
14. The term "Property" means the Smurfit-Stone Mill Superfund Site at 14377 Pulp Mill Road, located three miles south of the town of Frenchtown and eleven miles northwest of Missoula, Montana.
15. The term "RCRA" means the Resource Conservation and Recovery Act, amendments to the Solid Waste Disposal Act, and can be found at volume 42, United States Code (U.S.C.) Section 6901, et seq.
16. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.
17. The term "solid waste" shall have the same definition as that contained in Section 1004(27) of RCRA.

All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, 42 U.S.C. § 9601, et seq.; RCRA, 42 U.S.C. § 6901, et seq.; or their regulations found at 40 C.F.R. Part 300 and 40 C.F.R. Part 260, et seq. respectively, in which case the statutory or regulatory definitions shall apply.

ENCLOSURE 3

QUESTIONS
Smurfit-Stone Mill, Missoula, Montana, A804
REQUEST #1

1. Identify the person(s) answering these Questions by providing their name, address, fax and telephone number.
2. Identify the person(s) that you wish to receive all further communications from the EPA related to the Property.
3. For each and every Question contained herein, identify all persons consulted in the preparation of the answer.
4. For each and every Question contained herein, identify documents consulted, examined, or referred to in the preparation of the answer or that contain information responsive to the Question and provide accurate copies of all such documents.
5. Describe the relationship ^{between} ~~among~~ BNSF Railway and Montana Rail as it relates to the Site. Provide copies of all documents related to ^{the} ~~each~~ relationship, including, but not limited to, merger agreements, purchase agreements, property transfer documents and assumptions of liability.
6. Describe Respondent's activities at the Site including the following and provide copies of all documents relating to such activities:
 - a. The date Respondent acquired any portion of the Site;
 - b. The entity from which Respondent acquired any portion of the Site ^{is};
 - c. A description of Respondent's operations at the Site;
 - d. Any changes Respondent made to the Site including any demolition or improvements;
 - e. The activities taken upon cessation of operations at the Site; ^{and}
 - f. ^{The} ~~The~~ date Respondent transferred all or a portion of the Site, and the entity to which the Site was transferred.
7. Provide copies of all documents regarding environmental conditions at the Site including, but not limited to, any sampling information, solid and hazardous waste management plans, and any known releases of hazardous substances.
8. Describe all waste materials that resulted from Respondent's activities at the Site. Describe the location and method of storing waste. Identify any hazardous substances contained in such wastes

and provide copies of any and all documents that describe any analysis of such wastes and the results of the analysis.

9. Provide copies of any and all permits issued by State or Federal agencies related to your activities at the Site.
10. Identify companies or individuals that Respondent hired to perform work at the Site. Provide all documentation, including contracts, pertaining to this work. Include information about the purpose of and documentation related to Respondent's contracts at the Site.
11. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
12. Identify any materials Respondent transported to or from the Site.

NOTARIZED CERTIFICATE

I, _____, having been duly sworn and being of legal age, hereby state:

1. I am the person authorized by Montana Rail Link, Inc. to respond to the Environmental Protection Agency's (EPA's) request for information concerning the Smurfit-Stone Mill Site located near Missoula, Montana.
2. I have made a complete and thorough review of all documents, information, and sources relevant to the request.
3. I hereby certify that the attached response to EPA's request is complete and contains all information and documents responsive to the request.

(Signature) _____

(Name) _____

(Title) _____

(SEAL)

Subscribed and sworn to me

This _____ day of _____, 2012.

Notary Public

My Commission Expires _____

My address is _____
